



NATIONS UNIES  
COMMISSION ÉCONOMIQUE  
POUR L'EUROPE

ОБЪЕДИНЕННЫЕ НАЦИИ  
ЕВРОПЕЙСКАЯ ЭКОНОМИЧЕСКАЯ  
КОМИССИЯ

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3 May 2012

Dear Mr. Ewing,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom (E&W) in respect of the implementation of national planning policy statements and environmental regulations before Parliament (ACCC/C/2011/64)**

On 28 November 2011, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received from you the above communication addressed to the Compliance Committee of the Convention. The communication concerns compliance by the United Kingdom (England and Wales) with provisions of the Convention on public participation and access to justice in respect of the implementation of national planning policy statements and environmental regulations before Parliament. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

The communication has been registered under the symbol ACCC/C/2011/64, which you are invited to cite in future correspondence on the matter. The main documentation relating to the communication will be shortly available on the Committee's website at: <http://www.unece.org/env/pp/pubcom.html>.

#### Decision on admissibility

At its thirty-sixth meeting (27-30 March 2012), the Committee, considered the communication and the supporting documentation. It decided that with respect to the allegations concerning a lack of effective public participation in relation to a draft national Planning Policy Framework Guidance, the communication was not admissible, because it was too early for the Committee to review a national instrument that had yet not been adopted.

With respect to the allegations concerning access to justice, while the communication was admissible on a preliminary basis, in accordance with paragraph 20 of the annex to decision I/7, the Committee decided to apply its summary proceedings, because they related to systemic legal issues which the Committee had already discussed in the past or are being considered in the framework on other communications. Hence, the Committee intends not to further consider these allegations. This is also in line with the nature of the Convention's compliance mechanism, which is not a means of redress.

A copy of the preliminary determination on admissibility is attached. The Committee did not proceed to reach any conclusions with respect to the compliance issues referred to in the communication.

The communication will be forwarded to the Party concerned reminding it of the previous findings and recommendations and requesting it to provide information on the progress achieved on the previous recommendations. The Party concerned may also comment on the allegations and the admissibility, if it so wishes.

You are also invited to consider these allegations you made in the light of the findings and recommendations of the Committee in respect of communications ACCC/C/2008/23, ACCC/C/2008/28, ACCC/C/2008/33 and of decision IV/9i of the Meeting of the Parties (all available on the Committee's web site).

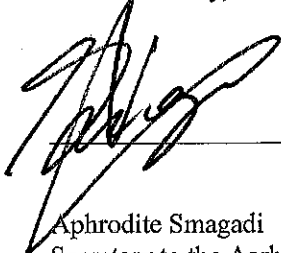
Summary proceedings (background)

Specifically, the Committee identified that legal issues raised by the communication (i.e. that judicial review is prohibitively expensive, including in comparison to the no-costs appeals to the Planning Inspector by applicants for planning permission) had already been dealt with by the Committee in the light of its deliberations in previous communications concerning compliance by the United Kingdom (ACCC/C/2008/23, ACCC/C/2008/27, ACCC/C/2008/33) and of decision IV/9i of the Meeting of the Parties. Therefore, summary proceedings would apply, according to its procedural decision at the twenty-eighth meeting (ECE/MP.PP/C.1/2010/4, para.45).

The Committee also identified that some legal issues raised by the communication were already before the Committee in the framework of joined communications ACCC/C/2010/45 and ACCC/C/2010/60, namely the allegations that members of the public had right of appeal to the Planning Inspector or similar body to challenge the implementation of the National Planning Policy Statements and statutory environmental regulations, in particular compared to the statutory right of appeal enjoyed by applicants for planning permission. The Committee decided that the substance of these allegations would be considered in the context of the two above-referenced communications. The joined discussion for these communications will take place at the thirty-seventh meeting of the Committee (26-29 June 2012). Invitations will be issued shortly.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



Aphrodite Smagadi  
Secretary to the Aarhus Convention Compliance Committee

Cc: Ms. Barbara Anning, International and European Coordination Division, DEFRA, UK  
Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office  
and other international organizations in Geneva

Enc. Preliminary determination on admissibility  
Datasheet on the communication